

Office of Detention and Removal Operations
 U.S. Department of Homeland Security
 425 I Street, NW
 Washington, DC 20536



U.S. Immigration and Customs Enforcement

October 5, 2006

Luis Clemente POSADA-Carriles (A12 419 708)
 C/O El Paso Processing Center
 8915 Montana
 El Paso, Texas 79925

Interim Decision to Continue Detention¹

This letter is to inform you that your custody status has been reviewed, and it has been determined that you will not be released from the custody of U.S. Immigration and Customs Enforcement (ICE) at this time. Your detention is being continued pursuant to sections 241.4 and 241.13 of Title 8 of the Code of Federal Regulations (C.F.R.) based upon ICE's determination that you remain a flight risk, danger to the community, and danger to the national security, and because you have failed to demonstrate that there is no significant likelihood of being removed in the reasonably foreseeable future. We have additionally decided to "initiate review proceedings under [8 C.F.R.] 241.14 before completing the HQPDU review under [8 C.F.R. § 241.13]," as authorized by 8 C.F.R. § 241.13(e)(6), and as noted in Magistrate Judge Garney's September 11, 2006, Report and Recommendation. Thus, this interim decision has been made pursuant to 8 C.F.R. §§ 241.13(b)(2), (c), and (e)(6), pending a final determination regarding your current detention under 8 C.F.R. § 241.13.

You are a native and citizen of Cuba and a citizen of Venezuela. On May 17, 2005, you were apprehended by ICE agents. On July 25, 2005, the Immigration Judge (IJ) found that you were a flight risk and denied you bond. The IJ further found that you were subject to mandatory detention for having committed a crime involving moral turpitude. The IJ found you removable on both charges presented in the Notice to Appear, pursuant to Immigration and Nationality Act (INA) § 212(a)(6)(A)(i) (present without admission) and INA § 212(a)(7)(A)(i)(I) (immigrant not in possession of a valid immigrant visa). Additionally, following oral testimony and presentation of evidence you withdrew your applications for asylum and withholding of removal under INA §§ 208 and 241(b)(3). You subsequently conceded you were likewise ineligible for withholding of removal under Article III of the U.N. Convention Against Torture (CAT) for having committed a serious nonpolitical crime outside the United States. On September 27, 2006, the IJ issued a decision finding you ineligible for withholding of removal under CAT because there are serious reasons to believe that you committed a serious nonpolitical crime outside of the United States prior to your arrival in the United States. The IJ based this finding in conjunction with his separate decision

¹ Anything you wish to submit in response to this Interim Decision to Continue Detention, should be received, via fax (202 732 2980 or 202 732 2979), by the Chief of the Custody Determination Unit, on or before October 13, 2006.

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granting the Department of Homeland Security's Motion to Pretermitt your application for withholding of removal under CAT, in part, based on your concession that you committed a serious nonpolitical crime outside the United States prior to your arrival in the United States. Specifically, you were convicted in Panama on April 20, 2004 for Crimes Against National Security and Counterfeiting Public Records for which you were sentenced to 7 years and 1 year imprisonment respectively. Ultimately, the IJ ordered your removal but granted deferral of removal to both Cuba and Venezuela.

You have a history of engaging in criminal activity and have been involved with individuals and organizations which promote and use terrorist violence. Open source information and/or your own statements link you to (1) the bombing of a Cubana Airlines passenger jet shortly after take-off in Barbados in 1976, (2) a string of hotel and restaurant bombings in Cuba in 1997 which resulted in the death of an Italian tourist, and (3) an assassination plot at the Tenth Ibero-American Summit hosted by the Republic of Panama in 2000.

A review of your arrest and criminal history shows that following a trial and acquittal on criminal charges in Venezuela, your acquittal was overturned on appeal, and, while pending a retrial on the charges, you escaped from prison. You have also been tied to the planning and coordination of a series of hotel and restaurant bombings that occurred in Cuba over a several month period in 1997 which resulted in the death of an Italian tourist. According to a *New York Times* article, "*A BOMBER'S TALE: Taking Aim at Castro, Key Cuba Foe Claims Exiles' Backing*," (*Times Article II*) published on July 12, 1998, and an article written on or about April 17, 2005, in the *Washington Post*, you reportedly granted the *New York Times* an interview in 1998 to generate publicity for your bombing campaign against Cuba's tourist industry and to frighten away tourists. As recently as a May 17, 2005, *Miami Herald* article, when questioned by reporters about whether you denied organizing the bombings in Cuba, you responded, "[I]et's leave it to history." You were convicted in Panama on April 20, 2004, for Crimes Against National Security and Counterfeiting Public records for which you were sentenced to 7 years and 1 year imprisonment respectively, relating to the previously mentioned events in Panama. For those offenses you were later pardoned by the outgoing President of Panama.

Based on the above information, as well as the record in your case, your release may have serious adverse foreign policy consequences for the United States. Accordingly, you will continue to be detained while your case is being considered for further detention under 8 C F R § 241 14(c). Under this provision, further continued detention of an alien is authorized if the Secretary of Homeland Security certifies in writing that (1) you are an alien described in § 212(a)(3)(C) or § 237(a)(4)(C) of the INA, (2) your release is likely to have serious adverse foreign policy consequences for the United States, and, (3) no conditions of release can reasonably be expected to avoid these serious adverse foreign policy consequences. See 8 C F R § 241 14(c). Further, the Secretary of Homeland Security shall only make such certification after consulting with the Department of State, and upon the recommendation of the Secretary of State.

In sum, your detention is being continued pursuant to 8 C F R §§ 241 4 & 241 13

 AC/CDU
Signature of HQPDU Director/Designated Representative

10/5/06
Date

PROOF OF SERVICE

(1) Personal Service (Officer to complete both (a) and (b) below.)

(a) I Adrian R. Carriles Assistant Chief of Police
Name of ICE Officer Title

certify that I served Luis POSADA Carriles A12 419 708 with a copy of
Name of detainee
this document at El Paso Processing Center on 11/14/01 at 12:00 PM
Institution Date Time

(b) I certify that I served the custodian _____
Name of Official

_____, at _____, on _____ with a copy
Title Institution Date
of this document

OR

(2) Service by certified mail, return receipt (Attach copy of receipt)

I _____, certify
Name of ICE Officer Title
that I served _____ and the custodian _____
Name of detainee Name of Official
with a copy of this document by certified mail at _____ on _____
Institution Date

[Handwritten signature]